



STATE OF NORTH DAKOTA  
DEPARTMENT OF AGRICULTURE  
600 E BOULEVARD AVE, DEPT 602  
BISMARCK, ND 58505-0020

DOUG GOEHRING  
COMMISSIONER

August 12, 2019

Rick Keigwin  
Director of Office of Pesticide Programs  
USEPA Headquarters William Jefferson Clinton Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Mr. Keigwin,

I am very concerned about the Environmental Protection Agency's (EPA) recent decision to possibly limit the state's ability to use 24(c) registrations. History has shown that 24(c) registrations are an effective tool to address special local needs and what is in place right now is working and should not be changed. I understand the challenges you deal with when some agencies and political subdivisions ban or restrict a product's use to the point that it could be considered banned. I also understand that the EPA has faced a lot of scrutiny for allowing the use of 24(c) registrations to place added restrictions on the use of the new formulations of Dicamba for in-crop applications to soybeans and cotton. However, in North Dakota, placing restrictions on the in-crop use of Dicamba in soybeans was completely necessary and using a 24(c) was the simplest and only logical avenue for state lead agencies to address the emergency situations in their respective states.

In 2017, North Dakota had approximately 200,000 acres of crop damage caused by off-target movement of Dicamba in soybean applications. We were faced with an emergency situation and had limited options to address the issue. The only recourse we have as a state to place restrictions on a product is to pass legislation, amend administrative rules, or to declare a product misbranded and cancel the registration. We felt canceling the registration was extreme, and going to the legislature opens up an emotionally charged dialog that would have moved from a science-based discussion to a belief centered discussion that would not have been productive. Administrative rules are not easy to change, and it is a long, drawn-out process that could not be completed before the next growing season. In order to declare the product misbranded or to justify the canceling the registration we would need to generate a lot of state-specific data that we did not have at that time. Since the EPA was standing by the decision to continue the registration of the product, any of the above stated actions would have been viewed as arbitrary and as such we would have been immediately faced with lawsuits. The state does not have the resources to defend such long, drawn-out, and expensive legal battles.

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8-13-19

We had a narrow window of time to act, and using a 24(c) registration was the simplest, most effective, and reasonable way to address the issue. We worked with our weed scientists at North Dakota State University to develop practical restrictions that we believed would be effective in mitigating future damage caused by use of the products. As a result, farmers were able to make timely planting decisions about the upcoming year and we were able to work effectively with the industry to provide outreach about the state-specific requirements before the 2018 planting season.

As a result of using the 24(c) process to place added restrictions, the amount of crop damage reported for the 2018 season was 24,000 acres compared to 200,000 acres of damage in 2017. That is nearly a 90 percent reduction in reported crop damage. Using a 24(c) registration was our only realistic option to place added restrictions on the products before the 2018 season. We feel they were necessary restrictions and were developed based on conditions specific to North Dakota.

If the EPA changes its policy and does not allow states to use 24(c)'s to address the issues such as the Dicamba crisis of 2017, we would be unable to take action in a timely manner if similar future issues arise. Furthermore, any other action taken at a state level would be immediately challenged in court. I steadfastly believe that the current process is working and effective and should not be amended unless it is to specify that states can use 24(c) registrations to place added restrictions on a product when warranted.

Thank you for your consideration on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Goehring", with a stylized flourish at the end.

Doug Goehring  
North Dakota Agriculture Commissioner

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